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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,629	03/01/2004	Ronald D. Latschaw	057635-0157	1339
20572	7590	01/10/2005	EXAMINER	
GODFREY & KAHN S.C. 780 NORTH WATER STREET MILWAUKEE, WI 53202			ARK, DARREN W	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 01/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/790,629

Applicant(s)

LATSCHAW, RONALD D.

Examiner

Darren W. Ark

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 13-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/29/2004.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 13-21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 11/22/2004.
2. Applicant's election with traverse of Species III in the reply filed on 11/22/2004 is acknowledged. The traversal is on the ground(s) that "...does not believe that the identified Species II should have been separated from the identified Species I for examination purposes but believes the issue to be moot in view of the election made". This is not found persuasive because Species II requires a head rest (32) having a dropped middle portion (45) at a top portion of the brace not required in the search of Species I. If applicant is traversing on the grounds that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention(s).

The requirement is still deemed proper and is therefore made FINAL.

***Drawings***

3. The drawings are objected to because the structures of the bolt and self-locking nut (33) are not clearly shown in any of the figures. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to because the structure of the snap button locking mechanism (52) is not clearly shown in any of the figures. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if

Art Unit: 3643

only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

5. The disclosure is objected to because of the following informalities:

Page 7, line 3, second occurrence of "30" should be changed to --32--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3643

7. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claim 3, there appears to be two claims (both end with a period) representing the limitations of claim 3. The two sentences should be combined to correctly represent the limitations of claim 3.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-12 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Tucker 4,171,595.

Tucker discloses a shell (6); a collapsible frame (5), the frame and shell forming a cockpit with upper and lower sections (see Fig. 1) and opposite sides (left and right or front and back); the frame including a first inflatable member (upright, vertically extending tube-type ribs 5) adapted to support the occupants torso at the upper section (a person leaning against the vertical ribs has his torso supported thereat) and a second inflatable member (lower tube-type ribs 5 extending horizontally along bottom or 16).

In regard to claim 3, Tucker discloses the second inflatable member (both lower horizontal ribs 5 and 16 have a space for user to place feet) creating a footbox.

Art Unit: 3643

In regard to claim 4, Tucker discloses the first inflatable member being wedge-shaped (where vertical rib 5 meets a horizontal rib 5 at the top portion of the blind to form a corner therebetween which is like a wedge shape).

In regard to claim 5, Tucker discloses the strap (others of each vertical pair of 5 besides the first member; each of vertical ribs 5 comprise pairs [one and other] of ribs since each of 5 are divided by seams 33; straps not being particularly claimed) extending along each interior surface of the sides of the cockpit to prevent the sides from sagging.

In regard to claim 6, Tucker discloses a gun rest (11, 12 extend between opposing sides of the cockpit).

In regard to claim 7, Tucker discloses a backpack assembly (8 allow the device to be attached to a backpack when not inflated; the limitation "backpack assembly" not particularly claimed) on a bottom surface of the shell.

In regard to claim 8, Tucker discloses at least one flap (9, 10) for covering the cockpit and being capable of being openable when the person moves from a supine position to a sitting position (person is capable of rising within the blind to a sitting position to open the flap).

In regard to claim 9, Tucker discloses the second inflatable member being U-shaped (three connected tubes 5 on the bottom form a generally U-shape in Fig. 1).

10. Claims 1, 4-7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Ness et al. 3,933,164.

Art Unit: 3643

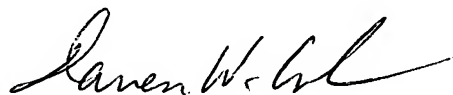
Ness et al. discloses a shell (11, 12); a frame (13-23, 31-38) which includes a first inflatable member (40); a strap (41) along each interior side; a gun rest (35a-c or 36 or horizontal portions of 17 and 20 which are capable of resting a gun thereon) extending between the sides of the cockpit.

In regard to claim 7, the backpack assembly is not particularly claimed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Ark whose telephone number is (703) 305-3733. The examiner can normally be reached on M-Th, 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Darren W. Ark  
Primary Examiner  
Art Unit 3643

DWA